



Alcohol Sales And Underage Drinking Laws in Montana

THE FACTS ABOUT ALCOHOL SALES AND THE LAW IN MONTANA

Legal Responsibilities

Summary of Key laws regarding alcohol.

- It is unlawful for any licensee, and licensee's employee or employees, or any other person to sell, deliver, or give away or cause or permit to be sold, delivered, or given away any alcoholic beverage to anyone under 21 years of age. (MCA code 16-3-301(3)(a))
- If a person shows a server or licensee a false identification and depicts himself/herself as 21 year old, and that a responsible person would have believed to be a legal identification, then the server or licensee would be protected. (MCA code 16-3-301 (6)) (The server or licensee might consider following the tips outlined below on how to Reduce Liability for Licensees.)
- It is a crime for anyone under the age of 21 who knowingly attempts to purchase an alcoholic beverage. A person convicted of attempt to purchase an intoxicating substance shall be fined an amount not to exceed \$150 if the person was under 21 years of age at the time the offense was committed and may be ordered to perform community service. (new law effective October 1, 2003.)
- It is against the law for any person (including parents) to invite a person under the age of 21 years into a public place where an alcoholic beverage is sold and treats, gives or purchases an alcoholic beverage for the person; permits the person in a public place where an alcoholic beverage is sold to treat, give, or purchase alcoholic beverages for him; or holds out the person to be 21 years of age or older to the owner of the establishment or his or her employee or employees. (MCA code 16-6-305(2)) (MCA code 45-5-622(2)(a)(i) Endangering the Welfare of Children) (MCA code 45-5-623 Unlawful Transactions with Children)
- Providing alcoholic beverage to intoxicated person prohibited. No store manager, retail licensee, or any employee of a store manager or retail licensee may sell any alcoholic beverage or permit any alcoholic beverage to be sold to any person apparently under the influence of an alcoholic beverage. No person may give an alcoholic beverage to a person apparently under the influence of alcohol. (MCA code 16-6-304)

Liability for Licensees

The license holder carries the primary legal responsibility for compliance with alcohol laws. However, individual staff members can also be charged and convicted when they violate these laws.

- When an underaged person is served an alcoholic beverage, both the server and the licensee/owner can be held responsible.
- The server is subject to a criminal action within the county it took place.
- The licensee/owner is subject to an administrative action at the state level. Currently the violation for Sale to a Minor for 1st offense is \$250.00, 2nd offense is \$1000.00, 3rd offense is \$1500 plus 20 day suspension, and 4th offense is revocation.
- If an accident occurs involving a person or an underage person because of negligence of the server or licensee/owner, the owner is responsible for the server, but both owner and server can be sued.

Tips for Reducing Liability for Licensees

There are specific actions that every licensee can take to reduce liability. Staff members also have certain responsibilities that can reduce liability for themselves and the alcohol outlet.

Develop a written policy and procedures for alcohol sales and service that:

- Identifies expectations regarding alcohol sales for all staff.
- Require all staff to read the written policy and procedures.
- Outline steps for preventing alcohol sales to underage youth.
- Describes consequences for violating the policy.
- States how management will support staff in alcohol sales.

Actively monitor staff compliance with the policy by:

- Observing staff on a regular basis.
- Correcting behavior when necessary.

Reward staff for compliance with the policy by:

- Offering encouragement for checking ID.
- Creating an incentive program with meaningful staff rewards.

Train staff to:

- Always ask and check ID thoroughly.
- Recognize fake ID
- Make a copy of identification on a copy machine.
- Photograph identification with a Polaroid camera.
- Know state alcohol laws.
- Deal with hostile customers.
- Refuse to sell alcohol when in doubt.
- Learn safety procedures when working alone.
- Have staff read establishment's alcohol policy
- Attend alcohol training programs and customer service training.
- Ask the manager for help with difficult situations.

Make your establishment a low-risk environment:

- Ensure sufficient light for ID checks.
- Install security systems.
- Restrict loitering.
- Display alcohol away from doorways and entrances.
- Restrict entry to those over 21.
- Observe customers' actions.
- Inform customers of the establishment's policy and the law.

Recognizing False Identification

Ways people obtain false identification.

- Through magazine and mail flyer advertisement.
- Borrowing an ID from older sibling or a friend.
- Computer generating identification on computers and laser printers.
- Altering information on existing identification such as birth date, photo and signature.

Things to look for when checking an identification card.

- Expiration Date (if its expired its not valid).
- Government issued ID.
- Age 21 On – Montana’s license or Montana identification card has the date the cardholder will turn 21 in the center of the card front. The text will be printed in green.
- Birth Date – Ask for the date. Compare that date with the license.
- Photo – On Montana’s license or Montana identification card the portrait will be in the bottom right of the card front with a ghost image on top left of the card front. Look at the photo on the license and at the person it identifies. They should look like the same person.
- Height, Weight, Hair Color – License should describe the person presenting it in terms of height, weight color of eyes and hair.
- Thickness of License – Watch for raised surface which may indicate an inserted photo.
- Separations in Lamination
- Surface of Identification – Watch for raised photo, knife cuts, or any rough areas that may have been altered.
- Blurred Lettering – Watch for type that does not match or looks like it has been altered.
- Check Signatures – Have person write out their signature and compare it to the identification they gave you. Compare the two.

Steps being taken by Montana to make identification harder to alter.

- Adult license shows photo of person on left side.
- Juvenile license shows photo of person on bottom right side with ghost image of top left of card front.
- Juvenile license shows date when the person will turn 21 years of age in green text on center of card front.
- Secure Laminate with a tamper resistant coating that displays an optically variable images of the grizzly bear across the document. Even a surgeon’s scalpel leaves a visible line on the face of the license indicating attempts of tampering.
- Ultraviolet (UV) printing of the word Montana diagonally will be on the adhesive side of the overlamine.
- Digital portrait and signature images and demographic information of the cardholder is printed onto the highly durable composite card.
- Ghost image (a smaller, lighter duplicate portrait) of the cardholder’s portrait image appears on the card front for additional card security.
- Ghost image of the state seal appears in the center of the card front for additional card security.
- The 2-D barcode located on back of each card contains all of the information from the front of the card for added security.

Working with Law Enforcement

Things you can do to help law enforcement reduce the problem of underaged drinkers.

- Report all cases of underaged persons attempting to purchase alcohol, whether it be with false identification or other means.
- Report any legal aged person or persons you suspect of buying alcohol for an underaged person or persons.
- Implement keg registration in your local area (city, town, county or state).
- Keep an incident log (date, time, anything about the incident that happened).

Underage drinking is a problem in Montana (Statistics from the Montana Prevention Needs Assessment Project 2002).

- Alcohol is perhaps the number one drug problem among underaged persons in the state of Montana.
- Montana ranks 4th for use of alcohol among our youth .
- In a recent survey, 44.5% of Montana high school students reported having 5 or more drinks in a row on several occasions.
- By 12th grade, 87% of the students have used alcohol in their lifetime.
- 22% of students in the 2002 Montana Prevention Needs Assessment surveyed reported being drunk at school at least once in the previous 12 months preceding the survey.

We can help prevent problems by explaining to underaged people what the laws are and what affect underage drinking can have on a person. When minors attempt to purchase or possess alcohol, they need to understand that they are committing an unlawful act and are subject to Montana laws.

The current MCA code 45-5-624 • Unlawful Attempt to Purchase or Possession of an Intoxicated Substance has been revised. The new revision will be effective starting October 1, 2003. Differences include increase of fines for each offense, must perform community service with the numbers of hours increased, parent along with the youth must pay for and complete a community-based substance abuse information course, and driver's license confiscated by the court with graduated increases as number of offenses increase. 2nd and 3rd offenses must complete a chemical dependency assessment and treatment, if recommended.

It is required the court's shall report to the Department of Public Health and Human Services (DPHHS) the name of any person who is convicted under MCA code 45-5-624. DPHHS shall maintain a list of those persons who have been convicted. This list must be available upon request to peace officers and to any court.

Below is an outline of the penalties of possession of intoxicating substance for underage youth.

Single definition for all persons under age 21 for unlawful possession of intoxicating substance, however, age distinct penalty structure.

Amendments to MCA code 45-5-624 effective October 1, 2003.

UNDER 18 YEARS OF AGE

<i>1ST OFFENSE</i>	<i>2ND OFFENSE</i>	<i>3RD OR SUBSEQUENT OFFENSE</i>
Fined not less than \$100 and not to exceed \$300	Fined not less than \$200 and not to exceed \$600	Fined not less than \$300 or more than \$900
Perform 20 hours of community service	Perform 40 hours of community service	Perform 60 hours of community service
Person and parent/guardian to complete and pay all costs of participation in community-based substance abuse information course approved by DPHHS, or court, or provided by Dept of Corrections	Person and parent/guardian to complete and pay all costs of participation in community-based substance abuse information course approved by DPHHS, or court, or provided by Dept of Corrections	Person and parent/guardian to complete and pay all costs of participation in community-based substance abuse information course approved by DPHHS, or court, or provided by Dept of Corrections
Driver's license confiscated by court for 30 days	Driver's license confiscated by court for 6 months	Driver's license confiscated by court for 6 months
	Complete chemical dependency assessment/treatment if recommended	Complete chemical dependency assessment/treatment if recommended

If convicted person fails to complete the community-based substance abuse course and has a driver's license, court shall order license suspended for 3 months for 1st offense, 9 months for 2nd offense, and 12 months for 3rd or subsequent offense.

18 YEARS OF AGE OR OLDER, BUT UNDER 21

<i>1ST OFFENSE</i>	<i>2ND OFFENSE</i>	<i>3RD OR SUBSEQUENT OFFENSE</i>
Fined not to exceed \$200	Fined not to exceed \$200	Fined not to exceed \$500
May be ordered to perform community service	May be ordered to perform community service	May be ordered to perform community service
		Shall be ordered to complete an alcohol information course approved by DPHHS, may include alcohol or drug treatment
		Discretion of court, shall be imprisoned in county jail for term not to exceed 6 months

A person under 21 years of age commits the offense of attempt to purchase an intoxicating substance if the person knowingly attempts to purchase an alcoholic beverage. A person convicted of attempt to purchase an intoxicating substance shall be fined an amount not to exceed \$150 if the person was under 21 years of age at the time the offense was committed and may be ordered to perform community service.

Behind the Bar – A Different Point of View

The number one concern of bar owners and servers is the possibility of a customer leaving their establishment and hurting themselves or someone else because they have had too much to drink.

Effective ways to deal with excessive drinkers.

- Suggest alternative beverages such as soft drinks, cocktails, non-alcohol beer and wine.
- Offer food-table snacks, hors d'oeuvres, soup or salad, sandwich, full meal.
- Visit their table or bar stool less frequently.
- Wait until everyone at table is finished and clear glasses before taking orders.
- Encourage participation in available activities – dancing, song contests, video games, etc.
- Suggest they slow down or taper off for awhile.
- Sometimes you just have to tell the person they have had enough and you are not going to serve them anymore.
- Drink Counting – One way to keep patrons from becoming intoxicated is to keep track of their drinks. Here are a few things to remember:
 - The body gets rid of about one drink per hour.
 - The number of drinks in the body at any time therefore equals the number of drinks consumed minus the number of hours since drinking started.
 - The average person will become intoxicated with four drinks in his system. A light weight person (e.g., under 140 pounds) can become intoxicated with three drinks in his system.

Owners and servers can reduce the problem of excessive drinking.

- Do not have happy hours that involve double strength drinks or two for one prices.
- Eliminate specials that promote excessive drinking within short periods of time.

Behavioral Cues in Excessive Drinkers

Behavioral cues appear progressively in four basic areas.

1. Inhibitions

- Becoming overly friendly
- Bravado
- Becoming loud
- Changing from loud to quiet or vice versa
- Drinking alone
- Annoying other customers

2. Judgement

- Complaining about strength of drink
- Changing consumption rate
- Ordering doubles
- Becoming argumentative
- Using foul language
- Careless with money
- Buying rounds for strangers or buying for house
- Making irrational statements
- Becoming belligerent

3. Reactions

- Lighting more than one cigarette at a time
- Unable to light cigarette
- Glassy eyes, lack of eye focus
- Loss of train of thought
- Slurred speech

4. Coordination

- Unable to pick up change
- Spilling drink, can't find mouth with glass
- Unable to sit straight on chair or bar stool, swaying, drowsy
- Stumbling, has trouble moving around objects in path, bumps into things
- Falling

Signs of visible intoxication.

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| • Drinking too fast | • Drinking alone | • Boisterous |
| • Ordering doubles | • Spilling drinks | • Crying or moody |
| • Crude behavior | • Aggressive | • Falling asleep |
| • Sexual advances | • Bumping into things | • Depressed |
| • Obnoxious or mean | • Drowsiness | • Stumbling |

MCA Code References:

MCA 16-3-301. Unlawful purchases, transfers, sales, or deliveries – presumption of legal age.

MCA 16-6-304. Providing alcoholic beverage to intoxicated person prohibited.

MCA 16-6-305. Age limit for sale or provision of alcoholic beverages – liability of provider.

MCA 45-5-622(2)(a)(i). Endangering the welfare of children.

MCA 45-5-623. Unlawful transaction with children.

MCA 45-5-624. Unlawful attempt to purchase or possession of an intoxicating substance – interference with sentence or court order.

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